

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**JOHN DOE,**  
*Plaintiff,*

**VS.**

**THE UNIVERSITY OF TEXAS M.D.  
ANDERSON CANCER CENTER, ET  
AL.,**  
*Defendants.*

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**CIVIL ACTION NO. 4:21-CV-1356**

**JOINT STATUS REPORT**

Pursuant to the Court's Order as indicated in the Hearing Minutes of September 1, 2023 [Dkt. 54], the parties submit this Joint Status Report for February 2024.

**1. Lead Counsel**

The Attorney in Charge for Plaintiff is: Eddie M. Krenek  
The Attorney in Charge for Defendants is: Benjamin S. Walton

**2. Discovery Continuing**

**Written Discovery**

Extensive written discovery was previously exchanged. Document productions continue to be exchanged between the parties. Substantial volumes of documents continue to be gathered, reviewed and prepared for production. On 1/9/2024, the Court signed a Standard Protective Order [Dkt. 63] and an Agreed Order Authorizing Disclosure [Dkt. 64] under which additional documents have been and continue to be gathered for review, inspection and production under protective order and certain confidentiality provisions. The parties are in agreement to get at least the core document productions exchanged with sufficient opportunity for review prior to the depositions commencing.

**Depositions**

The parties are working towards scheduling depositions beginning with the core parties, with Plaintiff being the first party to be deposed followed by Defendant Sheri Wakefield and/or certain organizational representatives of the institutional Defendants.

**Mediation/ADR**

The parties have ongoing discussions about conducting mediation/ADR after the depositions of Plaintiff and Ms. Wakefield and/or certain select depositions. The parties believe that doing so at this early stage would be conducive towards enhancing the potential success of a mediation.

### **3. Update on Procedural Status of Ancillary Case Pending Before Texas Supreme Court**

**Reminder (No Change from Previous Report):** The Texas Supreme Court granted the Petitions for Review in Case No. 22-0667; Court of Appeals No. 14-20-00588-CV; Trial Court No. 2019-82179. The issue before the Texas Supreme Court concerns the application of TEX. CIV. PRAC. REM. CODE 101.106 (of the Texas Tort Claims Act) concerning the “scope of employment” relating to the reporting of claims of employment/workplace improprieties and whether the initial complainant (Li “Lily” Cai) should be dismissed from the state court proceedings [potential immunity based on “election of remedies” in 101.106(f)]. Oral arguments before the Texas Supreme Court took place as scheduled on Tuesday, January 9, 2024. A more detailed synopsis of this matter is set forth in the parties November 2023 Jt. Status Report, for the Court’s easy reference.

The Parties do not currently believe that the Texas Supreme Court’s decision in that case will directly affect the proceedings now before this honorable Federal Court, unless a position is taken that the initial complainant (Li “Lily” Cai) is not amenable to deposition. It is Plaintiff’s intention that Cai’s deposition will be sought in discovery in this case.

### **4. Status Update on Criminal Proceedings that are Part of the Factual Events in Plaintiff’s Complaint**

There have been no further changes to the status of the pending criminal proceedings against Plaintiff. The parties do not anticipate any issues with these criminal proceedings that would prevent the depositions of Plaintiff and Individual Defendants to proceed, as discussed above. The Parties’ Joint Status Report for October 2023 provides further context relating to the potential issues of concern.

### **5. Extension of Expert Witness Designation Deadlines Requested**

Under the current DCO [Dkt. 56], Plaintiff’s expert witness identification and production of reports is due on 2/16/2024. Defendants’ expert witness identification and production of reports is due on 3/29/2024.

Plaintiff has engaged two experts at this time. One of the experts, Suzanne Miller, is out of the country and has experienced some delays in completing her work. Miller has received case documents and has been actively undertaking her work that is part of her scope of expertise. However, while she has the bulk of the documents on which it is anticipated she will rely to perform her work, there are some information/data/documents anticipated to be received in discovery, including either in documents to be produced or in depositions of certain of the Defendants. Plaintiff also has retained a damages expert, Dr.

Kenneth Lehrer. It is anticipated that Plaintiff needs an additional 30 days beyond the 2/16/2024 expert witness deadline to complete the reports. To the extent the reports are completed sooner, Plaintiff will produce such reports timely upon completion and receipt.

Counsel for the parties have conferred on this issue and discussed the ability to move back by 30 days the expert witness deadlines for both sides. All counsel is generally in agreement to extend the expert witness deadlines, and would request the Court's consideration of extending the expert witness designation deadlines to the following dates:

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|-----------|---|
| 3/15/2024 | Identification of plaintiff's experts and production of experts' reports in the form required by Fed. R. Civ. P. 26(a)(2)(B). |
| 4/29/2024 | Identification of defendant's experts and production of experts' reports in the form required by Fed. R. Civ. P. 26(a)(2)(B). |

Respectfully Submitted,

**KRENEK LAW OFFICES, PLLC**

/s/ Eddie M. Krenek

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document was served upon the following counsel of record *via* the Court's ECF system on the 6<sup>th</sup> day of February, 2024:

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/s/ Eddie M. Krenek  
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